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19 COUNTY OF SANTA CRUZ

20
21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

23 MARLENE HENDERSON, THE ESTATE OF
24 EDYTH HENDERSON, and THE ESTATE
25 OF JOSEPH HENDERSON,

26 Plaintiffs,

27 vs.

28 COUNTY OF SANTA CRUZ, THE SANTA
29 CRUZ COUNTY SHERIFF'S
30 DEPARTMENT, THE SANTA CRUZ
31 COUNTY HEALTH SERVICES AGENCY,
32 and DOES 1 THROUGH 25, INCLUSIVE,

Defendants

) Case No.: 3:14-cv-03544 WHO
(HRL)

**UPDATED JOINT CASE
MANAGEMENT STATEMENT
AND PROPOSED ORDER**

Date: January 30, 2018
Time: 2:00 p.m.
Courtroom: 2, 17th Floor

1 The Parties submit the following joint case management conference statement in
2 keeping with the Standing Order for All Judges of the Northern District of California-
3 Contents of Joint Case Management Statement dated November 1, 2014 and Civil
4 Local Rule 16-9. Rather than repeat information disclosed in prior Case Management
5 Conference statements that has not changed, for clarity and brevity, the Parties have
6 attempted to limit this Case Management Conference statement to new information and
7 updates as follows:
8

9 **I. RELATED CASES AND STAY/ABATEMENT ISSUES.**

10 In the present civil action, Plaintiffs allege that the County Defendants acted
11 wrongfully in releasing a former inmate, James Henderson, who later went on to murder
12 the decedents. There is a related criminal case entitled *People of the State of California*
13 *v. James Roland Henderson*, Santa Cruz Superior Court Case No. F25036. This is the
14 pending criminal case against James Henderson involving the two murders which form
15 the alleged basis of the civil case before this Court.
16

17 As a result of the pendency of this criminal case, and with the Court's consent, at
18 a prior Case Management Conference on September 26, 2017, the parties agreed to
19 stay or abate this civil action to allow the criminal case to proceed. Since the last Case
20 Management Conference in this matter the following has occurred in James
21 Henderson's criminal case:
22

23 The case is currently set for a trial readiness conference on February 14, 2018
24 and set for jury trial on February 20, 2018.
25

26 Because the criminal case against James Henderson remains ongoing, the
27 parties again request that this matter be stayed or abated pending resolution of James
28 Henderson's criminal trial.
29

30 **II. DISCOVERY.**

31 No discovery has taken place in the case to date as a result of the stay, and the
32

1 parties again request that none take place while the case remains stayed pending
2 resolution of the related criminal action against James Henderson.

3 **III. SETTLEMENT AND ADR.**

4 The parties have been referred to the Court's ADR program and have selected
5 mediation. In light of the stay of the case, the previously set ADR completion date has
6 been stayed by stipulation of the parties and prior Order of this Court.
7

8 **IV. SCHEDULING.**

9 In light of the concurrent criminal prosecution of James Henderson for the
10 murders which form the basis of this civil case, the parties propose that the Court
11 continue the stay or abatement of this action and set a further Case Management
12 Conference to take place after the anticipated 3-4 week criminal jury trial of James
13 Henderson has concluded.

14 Therefore, the parties request the Court set a further Case Management
15 Conference in September 2017, after the next scheduled hearing in the criminal matter.
16 At that point, the parties can discuss appropriate scheduling and address any continued
17 need for a stay or abatement of this action as may be necessary to allow James
18 Henderson's criminal case to run its course.

19 As before, the County Defendants contend that the case is subject to *Younger*
20 abstention (*Younger v. Harris* 401 US 37, 49-53 (1971) due to the pendency of the
21 criminal action against James Henderson. Alternatively, the action is also subject to a
22 *Wallace* stay under *Wallace v. Kato*, 549 U.S. 384, 394 (2007), which permits a federal
23 court to stay consideration of a federal claim until the criminal case is resolved if claim
24 relates to rulings that will likely be made in a pending criminal trial.

25 The County Defendants assert that the outcome and resolution of the criminal
26 case against James Henderson is material to the civil case against the County here
27 because, *inter alia*, Plaintiffs' damages are based on the assumption that James
28

1 Henderson is guilty of killing the decedents.

2 Dated: January 23, 2018 LAW OFFICES OF MICHAEL J. CURLS

3
4 By: */s/ Nichelle D. Jones
5 Nichelle D. Jones
6 Attorney For Plaintiff

7 Dated: January 23, 2018 HAAPALA, THOMPSON & ABERN, LLP

8
9 By: /s/ Rebecca S. Widen
10 Rebecca S. Widen
11 Attorneys for Defendant
12 *Ms. Widen provided her consent that this
document be electronically filed

13
14 **CASE MANAGEMENT ORDER**

15 The above Updated Joint Case Management Statement and Proposed Order is
16 approved as the Case Management Order for this case. This case remains stayed.

17 The next Case Management Conference shall be held on
18

19 _____.
20
21 Dated:

22 _____
23 Honorable William H. Orrick
United States District Court Judge
24
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